

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

GERARDO ARANDA, GRANT
BIRCHMEIER, STEPHEN PARKES, and
REGINA STONE, on behalf of themselves and
a class of others similarly situated,

Plaintiffs,

v.

CARIBBEAN CRUISE LINE, INC.,
ECONOMIC STRATEGY GROUP,
ECONOMIC STRATEGY GROUP, INC.,
ECONOMIC STRATEGY, LLC, THE
BERKLEY GROUP, INC., and VACATION
OWNERSHIP MARKETING TOURS, INC.,

Defendants.

Case No. 1:12-cv-04069

Honorable Matthew F. Kennelly

PLAINTIFFS' MOTION FOR APPEAL BOND

Pursuant to Federal Rule of Appellate Procedure 7, Plaintiffs Gerardo Aranda, Grant Birchmeier, Stephen Parkes, and Regina Stone ("Plaintiffs") respectfully request that the Court order Objector Freedom Home Care, Inc. ("Freedom Home Care") to post a \$5,000 bond to ensure payment of costs on appeal. In support of their motion, Plaintiffs state as follows:

1. On January 23, 2017, Freedom Home Care filed an objection to the amount of attorneys' fees requested by Class Counsel for securing the class action settlement in the above-captioned action. (Dkt. 548.)

2. On April 10, 2017, the Court entered a corrected Order granting in part and denying in part Class Counsel's fee request. (Dkt. 629.) Freedom Home Care has since taken full credit for causing the Court to reduce Class Counsel's fee and requested that the Court award its counsel attorneys' fees. (Dkts. 635, 637.)

3. Nevertheless, on May 5, 2017, Freedom Home Care filed a Notice of Appeal of the Court's corrected fee Order, believing the Court has abused its discretion in awarding Class Counsel fees. (Dkt. 639.) On May 8, 2017, Defendant The Berkley Group also appealed this Court's award of fees to Class Counsel. (Dkt 643.) And on May 9, 2017, Defendants Caribbean Cruise Line and Vacation Ownership Marketing Tours followed suit. (Dkt. 649.)

4. Federal Rule of Appellate Procedure 7 authorizes district courts to "require an appellant to file a bond or provide other security in any form and amount necessary to ensure payment of costs on appeal."

5. As the Court is aware, the issues Freedom Home Care raised in its objection are largely duplicative of those raised by the Defendants. (*See* dkt. 565.) In considering this objection, the Court thoroughly examined why the particular fee structure used in this case and the awarded fees are appropriate. (*See generally* dkt. 629.)

6. Freedom Home Care is or should be well aware that its appeal is unlikely to succeed, particularly as its general counsel, Mr. Bandas, is "a known vexatious appellant" who has been "repeatedly admonished for pursuing frivolous appeals of objections to class action settlements." *In re Gen. Elec. Co. Sec. Litig.*, 998 F. Supp.2d 145, 156 (S.D.N.Y. Feb. 11, 2014).

7. Given the Court's detailed reasoning and explanation for awarding the fees in the amount it did, it is unlikely Freedom Home Care can meet its burden to show the Court abused its discretion. *See In re Synthroid Mktg. Litig.*, 264 F.3d 712, 717 (7th Cir. 2001) ("The objectors' other grounds are well covered by the district court's opinion. The judge did not abuse her discretion in approving this settlement.").

8. A bond of \$5,000 is the appropriate amount to ensure that Freedom Home Care will pay Plaintiffs' costs in the likely event that it loses on appeal. *See Allen v. J.P. Morgan*

Chase Bank, NA, No. 15-3425, 2015 WL 12714382, at *1 (7th Cir. Dec. 4, 2015) (reducing \$121,866 appeal bond against Mr. Bandas ordered by Judge Pallmeyer to \$5,000).

9. That this Court has previously entered an Order requiring Kevin McCabe, who is appealing the settlement on separate grounds unrelated to attorneys' fees, post a \$5,000 appeal bond, dkt. 624, does not negate the need for a separate bond. *See In re Navistar Diesel Engine Prod. Liab. Litig.*, No. 11 C 2496, 2013 WL 4052673, at *3 (N.D. Ill. Aug. 12, 2013) (Kennelly, J.) (requiring "each appellant" to post a \$5,000 bond.)

WHEREFORE, Plaintiffs respectfully request that the Court enter an order 1) directing Objector Freedom Home Care, Inc. within seven (7) days to post a bond in the amount of \$5,000 to cover Plaintiffs' taxable costs on appeal; and 2) granting any such further relief as it deems reasonable and just.

Respectfully submitted by:

Dated: May 18, 2017

/s/Alexander G. Tievsky

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Class Counsel

CERTIFICATE OF SERVICE

I, Jessica Woodard, an employee of Edelson PC, hereby certify that on May 18, 2017, I served the above and foregoing ***Plaintiffs' Motion for Appeal Bond*** by causing a true and accurate copy of such paper to be filed with the Court and transmitted to all counsel of record via the Court's CM/ECF electronic filing system.

/s/Jessica R. Woodard